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MONTANA LEGISLATIVE HISTORY

Chapter 529 19 89

Bill H 701 S _____ Original bill & history ✓ C

H. Committee on	Agriculture		S. Committee on	Ag.	
Hearing Date(s)	2/17	___C	Hearing Date(s)	3/08	___C
	_____	___C		_____	___C
	_____	___C		_____	___C
	_____	___C		_____	___C
Date Out	2/17	___C	out	3/17	

FISCAL NOTE

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

HOUSE FINAL STATUS

2/14	INTRODUCED		
2/14	REFERRED TO STATE ADMINISTRATION		
2/17	HEARING		
2/17	COMMITTEE REPORT--BILL PASSED		
2/21	2ND READING PASSED	77	22
2/22	3RD READING PASSED	81	18
	TRANSMITTED TO SENATE		
2/28	REFERRED TO LABOR & EMPLOYMENT RELATIONS		
3/16	HEARING		
3/23	COMMITTEE REPORT--BILL CONCURRED AS AMENDED		
3/28	2ND READING CONCURRED AS AMENDED	34	13
3/29	3RD READING CONCURRED	37	12
	RETURNED TO HOUSE WITH AMENDMENTS		
3/31	2ND READING AMENDMENTS NOT CONCURRED	63	34
4/04	CONFERENCE COMMITTEE APPOINTED		
4/08	CONFERENCE COMMITTEE REPORT NO. 1		
4/10	2ND READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	97	0
4/11	3RD READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	96	1
	SENATE		
4/05	CONFERENCE COMMITTEE APPOINTED		
4/08	CONFERENCE COMMITTEE REPORT NO. 1		
4/11	2ND READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	49	0
4/13	3RD READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	47	0
4/18	SIGNED BY SPEAKER		
4/19	SIGNED BY PRESIDENT		
4/19	TRANSMITTED TO GOVERNOR		
4/20	RETURNED TO HOUSE WITH GOVERNOR'S AMENDMENTS		
4/20	2ND READING GOVERNOR'S AMENDMENTS CONCURRED	95	2
4/21	3RD READING GOVERNOR'S AMENDMENTS CONCURRED	96	3
	TRANSMITTED TO SENATE		
4/21	2ND READING GOVERNOR'S AMENDMENTS CONCURRED	50	0
4/21	3RD READING GOVERNOR'S AMENDMENTS CONCURRED	49	1
	RETURNED TO HOUSE		
4/27	SIGNED BY PRESIDENT		
4/28	SIGNED BY SPEAKER		
4/28	TRANSMITTED TO GOVERNOR		
5/05	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 646 EFFECTIVE DATE: 10/01/89		

HB 701 INTRODUCED BY SWYSGOOD
REQUIRE CENTRAL FILING OF AGRICULTURAL LIENS WITH SECRETARY OF STATE

2/14	INTRODUCED		
2/15	REFERRED TO AGRICULTURE, LIVESTOCK & IRRIG.		

2/16	FISCAL NOTE REQUESTED			
2/17	HEARING			
2/18	COMMITTEE REPORT--BILL PASSED			
2/20	FISCAL NOTE RECEIVED			
2/21	2ND READING PASSED		95	2
2/22	3RD READING PASSED		99	1
	TRANSMITTED TO SENATE			
2/28	REFERRED TO AGRICULTURE, LIVESTOCK & IRRIG.			
3/08	FISCAL NOTE PRINTED			
3/08	HEARING			
3/21	COMMITTEE REPORT--BILL CONCURRED AS AMENDED			
3/22	2ND READING CONCURRED AS AMENDED		47	1
3/22	SEGREGATED FROM COM/WHOLE REPORT			
3/23	2ND READING CONCURRED AS AMENDED		47	2
3/28	3RD READING CONCURRED		44	6
	RETURNED TO HOUSE WITH AMENDMENTS			
3/31	2ND READING AMENDMENTS CONCURRED		94	0
4/01	3RD READING AMENDMENTS CONCURRED		90	3
4/08	SIGNED BY SPEAKER			
4/10	SIGNED BY PRESIDENT			
4/10	TRANSMITTED TO GOVERNOR			
4/14	SIGNED BY GOVERNOR			
	CHAPTER NUMBER 529 EFFECTIVE DATE: 10/01/89			

HB 702 INTRODUCED BY COBB
ALLOW LEASING FOR INSTREAM FLOWS DURING DROUGHT DISASTER OR EMERGENCY

2/14	INTRODUCED			
2/15	REFERRED TO NATURAL RESOURCES			
2/16	FISCAL NOTE REQUESTED			
2/17	HEARING			
2/17	TABLED IN COMMITTEE			
2/27	FISCAL NOTE RECEIVED			

HB 703 INTRODUCED BY RAMIREZ, ET AL.
REVISE SALES ASSESSMENT RATIO STUDY PROCEDURES USED IN ANNUAL ADJUSTMENTS

2/14	INTRODUCED			
2/15	REFERRED TO TAXATION			
3/20	HEARING			
3/21	COMMITTEE REPORT--BILL PASSED AS AMENDED			
3/29	2ND READING PASSED		96	0
3/30	3RD READING PASSED		99	0
	TRANSMITTED TO SENATE			
3/31	REFERRED TO TAXATION			
4/07	HEARING			
4/11	COMMITTEE REPORT--BILL CONCURRED AS AMENDED			
4/12	2ND READING CONCURRED		49	0
4/13	3RD READING CONCURRED		47	0
	RETURNED TO HOUSE WITH AMENDMENTS			
4/15	2ND READING AMENDMENTS CONCURRED		81	15
4/17	3RD READING AMENDMENTS CONCURRED		96	3
4/19	SIGNED BY SPEAKER			
4/20	SIGNED BY PRESIDENT			

House BILL NO. 701

INTRODUCED BY Simpson

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR CENTRAL FILING IN THE OFFICE OF THE SECRETARY OF STATE OF CERTAIN STATUTORY AGRICULTURAL LIENS; AMENDING SECTIONS 71-3-125, 71-3-402, 71-3-404, 71-3-703, 71-3-712, 71-3-802, AND 71-3-902, MCA; REPEALING SECTIONS 71-3-403, 71-3-803, AND 71-3-903, MCA; AND PROVIDING AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 71-3-125, MCA, is amended to read:

"**71-3-125. ~~Notice~~ Filing of agricultural lien statements.** (1) Unless a ~~notice~~ statement of an agricultural lien has been filed in the office of the secretary of state as provided in this chapter, a buyer who, in ordinary course of business as defined in 30-1-201(9), buys a farm product takes it free of any lien created by this chapter even though the lien is otherwise perfected.

(2) A ~~notice~~ statement of an agricultural lien is sufficient if it:

(a) gives the names and addresses of the debtor and lienor and the county of residence of the debtor;

(b) describes the type of lien and its statutory authority;

(c) describes the collateral;

(d) contains the notation by the ~~county clerk and recorder~~ secretary of state of the date of filing and filing number; ~~and~~

(e) is signed by the lienor~~.~~;

(f) describes the service or product furnished. If the collateral is farm products, the statement must state the county in which the farm products are located, designated by type of farm product.

(g) states the price or wage agreed upon or, if the price or wage was not agreed upon, the reasonable value of the service or product furnished;

(h) states the amount remaining unpaid;

(i) state the terms and period of employment if it is a farm laborer's lien filed pursuant to part 4 of this chapter;

(j) describes the land upon which seed or grain was or will be sown, planted, or used if it is a lien for seed or grain filed pursuant to part 7 of this chapter;

(k) describes the land upon which the grain or crops were grown and the place the grain or crops are presently stored if it is a thresher's lien filed pursuant to part 8 of this chapter;

(l) describes the land upon which the service was performed if it is a lien for spraying or dusting filed

INTRODUCED BILL
HB 701

pursuant to part 9 of this chapter; and

(m) states the starting date of insurance coverage, if it is a lien for hail insurance filed pursuant to Title 80, chapter 2, part 2, or pursuant to part 7 of this chapter.

(3) ~~Such notice~~ The agricultural lien statement must be in the form prescribed by the secretary of state.

(4) The secretary of state shall:

(a) record ~~such notice~~ the agricultural lien statement on the centralized computer system as set forth in 30-9-403; and

(b) establish fees for such recordings as set forth in 30-9-403.

(5) For the purposes of this section, an agricultural lien means a lien under ~~parts~~ Title 80, chapter 2, part 2, or under part 4, 7, 8, or 9 of this chapter.

(6) A statement of an agricultural lien or continuation statement that has been filed at the office of the county clerk and recorder lapses on March 31, 1990, unless prior to that date there is filed in the office of the secretary of state a certified copy of the statement and all related documents on file with the county clerk and recorder."

Section 2. Section 71-3-402, MCA, is amended to read:

"71-3-402. **How lien obtained.** ~~(1)~~ In order to acquire a lien, as specified in 71-3-401, the person performing ~~such~~

services shall, within 30 days after the services are fully performed, file in the office of the ~~clerk and recorder in the county in which any of the real estate is situated on which any crop is grown, upon which a lien is claimed, a statement verified by affidavit of the person claiming such lien, his duly authorized agent, or attorney having knowledge of the facts, setting forth the terms of employment, the name of the employer, the time when the services were commenced and when ended, the wages agreed upon, if any, and if not agreed upon then the reasonable value of the same, the terms of payment, if any, and a description of the real estate on which any crop is grown or has been grown or harvested on which a lien is claimed, the amount paid him, if any, and the amount remaining unpaid and that said laborer claims a lien for the same~~ secretary of state a statement of agricultural lien, as provided in 71-3-125, and the address to which notice ~~shall~~ must be directed as required by 71-3-404.

~~(2) Notice of the lien also must be filed in the office of the secretary of state as required by 71-3-125.~~"

Section 3. Section 71-3-404, MCA, is amended to read:

"71-3-404. **Notice to other lienholders.** (1) ~~Every~~ A person intending to foreclose a lien secured under the provisions of this part ~~must~~ shall give a written notice to the owner or the person against whom the lien is claimed and

all chattel mortgagees, encumbrancers, and all other lienholders who appear on record in the office of the ~~county clerk-and-recorder-or~~ secretary of state that in not less than 10 days from the date of ~~said-lien~~ notice he will institute proceedings for the foreclosure of his lien.~~,--and all~~ Any other labor ~~lienholders~~ lienholder to whom notice is given ~~shall--have--the--right--to~~ may join in ~~said~~ the foreclosure proceedings and ~~be~~ is entitled to a pro rata share of the proceeds of the foreclosure sale, as ~~hereinafter~~ provided in this part. However, if the notified labor ~~lienholders--do--not--join--in-said-proceedings,-they shall-not-be~~ lienholder does not join in the proceedings, he is not entitled to share pro rata in the proceeds of the sale.

(2) The lien notice required herein must be given by ~~registered-or~~ certified mail and directed to the last-known address of the owner or the person against whom the lien is claimed and to the addresses of the chattel mortgagees, encumbrancers, and all other lienholders as their addresses appear of record. The return of the foreclosure sale must be accompanied by ~~due~~ proof of the giving of ~~such~~ notice as required to be given ~~herein~~ in this section."

Section 4. Section 71-3-703, MCA, is amended to read:

"71-3-703. ~~How to obtain lien.~~ ~~(1)~~ Any person, company, association, or corporation who is entitled to a

lien under 71-3-701 shall, within 90 days after the seed or grain is furnished or the funds, means, or ~~moneys~~ money advanced ~~therefor~~ for the seed or grain, file in the office of the ~~county-clerk-and-recorder-of-the-county-in-which-such seed--or--grain--is--to--be--planted--or-used-a-statement-in writing-verified-under-oath-showing-the-kind-and-quantity-of the-seed-or-grain-furnished,-its-value,-or-the-amount-of-the funds-or-money-advanced-to-pay-therefor,--the--name--of--the person--or--persons--to-whom-furnished,-and-a-description-of the-land-and-of-each-tract-of-land-upon-which-the-same-is-to be-or-has-been-planted-or-sown-or-used-in-the-production--of a--crop~~ secretary of state a statement of agricultural lien as provided in 71-3-125. Unless the person entitled to ~~such~~ a lien ~~shall-file-such~~ files the lien statement within the time ~~aforesaid~~ required, he ~~shall-be-deemed~~ is considered to have waived the right ~~thereto~~ to a lien.

~~(2)--Notice-of-the-lien--also--must--be--filed--in--the office--of--the-secretary-of-state-as-required-by-71-3-125.~~"

Section 5. Section 71-3-712, MCA, is amended to read:

"71-3-712. ~~How lien obtained.~~ ~~(1)~~ Any person, company, association, or corporation who is entitled to a lien under 71-3-711 shall, within 30 days after the insurance is issued, file in the office of the ~~county-clerk-and-recorder of-the-county-in-which-the-crop--so--insured--is--located--a statement---in---writing--verified--under--oath--giving--the~~

~~description-of-the-land-upon--which--the--crop--is--planted,~~ ~~together-with-the-kind-of-crop-insured;~~ secretary of state a statement of agricultural lien as provided in 71-3-125. ~~provided-that-with-a~~ A mutual company ~~it~~ may file a lien for the largest amount that may become due under its assessment power, and in the event that the amount assessed ~~shall~~ is not be as large as the amount of the lien claimed, then the amount assessed and due ~~shall-be~~ is the amount the mutual insurance company ~~shall-be~~ is entitled to under this lien. Unless the person, company, association, or corporation entitled to such a lien ~~shall--file--such~~ files the agricultural lien statement within the time ~~aforesaid~~ required, he or it ~~shall-be-deemed~~ is considered to have waived the right ~~thereto~~ to a lien.

~~(2)--Notice--of--the--lien--also--must--be-filed-in-the office-of-the-secretary-of-state-as-required--by--71-3-125.~~"

Section 6. Section 71-3-802, MCA, is amended to read:

"71-3-802. How lien obtained. (1) Every A person intending to avail himself of the benefits of this part ~~must~~ shall file with the ~~county-clerk-of-the-county-in-which-said grain--or--other-crops-were-grown~~ office of the secretary of state a statement of agricultural lien as provided in 71-3-125, within 10 days after the last service was rendered or labor performed in the threshing of ~~said~~ grain or other crops or the cutting and harvesting and threshing by ~~said~~

the combined harvester and thresher, a notice that within 20 days a lien, as specified in 71-3-801, will be claimed. ~~and within-20-days-thereafter-shall-file-with-the--county--clerk and--recorder--of--the--county--in-which-said-grain-or-other crops-were-grown-a-just-and-true-account-of-the--amount--due him--or--them--for-such-services-or-labor-after-allowing-all just--credits--and--offsets---and---containing---a---correct description--of--the-grain-or-other-crops-to-be-charged-with such-lien,-the-price--agreed--upon--for--such--threshing--or cutting--and--harvesting,--the--name-of-the-person,-firm,-or corporation-for-whom-such-labor-and-services-were-performed, and-a-description-of-the-lands-as-nearly--as--possible--upon which---said--grain--or--other--crops--were--raised,--and--a description-of-the-legal-subdivision-of-land-upon-which-said grain-is-stored-and,-if-said-grain-is-stored-in-an-elevator, the-locality-of-the--elevator,--which--statements--of--facts shall--be--verified-by-affidavit-of-the-person-claiming-such lien--or--his--duly--authorized--agent--or--attorney--having knowledge-of-the-facts.--Any-error-or-mistake-in-the-account or--description--of--the--grain--or--other--crops--or-of-the property-upon-which-it-was-raised-shall-not-invalidate--such lien.~~

(2) If the grain or other crops so cut, harvested, and threshed are being hauled from the machine or combine direct to the elevator or to any other purchaser, then the

threshermen, swather, or owner of the combine desiring to claim ~~such~~ a lien shall also serve written notices upon the elevatorman or other private purchaser that he will claim and file a lien upon ~~said~~ the grain or other crops for his services or labor performed in threshing or combining and threshing the ~~same~~ grain or crops.

~~(3)--Notice--of--the--lien--also--must--be-filed-in-the office-of-the-secretary-of-state-as-required--by--71-3-125.~~"

Section 7. Section 71-3-902, MCA, is amended to read:

"71-3-902. How lien obtained. ~~(1)~~ Any person, firm, corporation, or partnership who is entitled to a lien under this part shall, within 60 days after the last labor or service was performed or material furnished in crop dusting or spraying grains or crops, file in the office of the ~~county-clerk-and-recorder-of-the-county-in-which-said-grains or--crops--were--grown-a-just-and-true-account-of-the-amount due-for-such-services,-labor,-or-material-after-allowing-all proper-credits-and-offsets-and-containing-a--description--of the--grain--or-crops-to-be-charged-with-such-lien,-the-price agreed-upon-for-such-labor-or-service-or-material-or,-if--no price--was--agreed--upon,--the-reasonable-value-of-the-same, together-with-the-name-of-the-person,-firm,--or--corporation for--whom--such-labor-or-services-were-performed-or-material furnished-and-a--description--of--the--lands--as--nearly--as possible--upon-which-said-grains-or-crops-were-raised,-which statements-of-fact-shall-be-verified--by--affidavit--of--the person,-firm,-corporation,-or-partnership-claiming-such-lien or--his,--their,--or--its--duly-authorized-agent or-attorney having-knowledge-of-the-facts~~ secretary of state a statement of agricultural lien as provided in 71-3-125.

~~(2)--Notice-of-the-lien--also--must--be--filed--in--the office--of--the-secretary-of-state-as-required-by-71-3-125.~~"

NEW SECTION. **Section 8.** Repealer. Sections 71-3-403, 71-3-803, and 71-3-903, MCA, are repealed.

NEW SECTION. **Section 9.** Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

NEW SECTION. **Section 10.** Applicability. [This act] applies to agricultural liens filed after September 30, 1989.

-End-

STATE OF MONTANA FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB701, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to provide for central filing in the Office of the Secretary of State of certain statutory agricultural liens; amending Sections 71-3-125, 71-3-402, 71-3-404, 71-3-703, 71-3-712, 71-3-802, and 71-3-902, MCA; repealing Sections 71-3-403, 71-3-803, and 71-3-903, MCA; and providing an applicability date.

ASSUMPTIONS:

1. Fees are already collected by the Office of the Secretary of State for "notices " of Title 71 filings.
2. Current Title 71 notices accurately represent the number of filings on the local level.
3. Lien is seasonal/short term and therefore, no massive centralization will occur.
4. Current economic conditions will continue to negatively impact the agricultural community.
5. Current office staff and organization can handle the Title 71 filings without added staff.

FISCAL IMPACT: None.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

The elimination of these Title 71 filings on the county level will decrease their income. The extent of this reduction is unclear.

Ray Shackleford DATE 2/20/89

RAY SHACKLEFORD, BUDGET DIRECTOR
OFFICE OF BUDGET AND PROGRAM PLANNING

Chuck Swysgood DATE 2-21-89

CHUCK SWYSGOOD, PRIMARY SPONSOR

Fiscal Note for HB701, as introduced

HB 701

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON AGRICULTURE

Call to Order: By Chairman Tom Beck, on March 8, 1989, at 1:00 P.M.

ROLL CALL

Members Present: Senator Hubert Abrams, Senator Gary Aklestad, Senator Esther Bengtson, Senator Gerry Devlin, Senator Jack Galt, Senator Greg Jergeson, Senator Gene Thayer, Senator Bob Williams, and Chairman Tom Beck

Members Excused: None

Members Absent: None

Staff Present: Doug Sternberg, Legislative Council

Announcements/Discussion: None

HEARING ON HOUSE BILL 352

Presentation and Opening Statement by Sponsor:

Representative Elliott, House District 51, stated, "This is a bill to amend the laws that pertain to conservation districts to allow a local conservation district board to remove a supervisor for having more than three unexcused absents. Everybody is happy with it over in the House."

List of Testifying Proponents and What Group They Represent:

Ray Beck representing the Conservation Districts Division for the Department of Natural Resources
John Daggon representing the Resource Council
Bob Lane representing the Montana Association of Conservation Districts

List of Testifying Opponents and What Group They Represent:

None

there is a clarification. You feel all the amended portions is just for clarification. Ralph Peck - "The information here was information present in the 87 legislation. This is simply pulling that information to find the pure counseling efforts, the financially unsecured creditors and other definitions. This bill will bring those definitions to the main part of the bill."

Senator Aklestad - "How have you been able to operate up to this point? Ralph Peck - "We operated the program with the terms specified in the special session in 1986."

Closing by Sponsor: Representative Linda Nelson - "I do feel this is a program with people helping people. I urge your support."

DISPOSITION OF HOUSE BILL 273

Discussion: None

Amendments and Votes: None

Recommendation and Vote: Senator Jergeson moved HB 273 TO BE CONCURRED IN; Senator Devlin seconded the motion. The motion carried unanimously.

Senator Jergeson was assigned to carry HB 273.

HEARING ON HOUSE BILL 701

Presentation and Opening Statement by Sponsor:
Representative Swysgood, House District 73, stated, "This is an act to provide for central filing in the office of the Secretary of State of certain statutory agricultural liens." See exhibit 10 for further testimony. Representative Swysgood submitted a sheet of amendments. See exhibit 11.

List of Testifying Proponents and What Group They Represent:

George Bennett representing the Montana Bankers Association
Cort Harrington representing the Montana Association of Clerk and Recorders

List of Testifying Opponents and What Group They Represent:

None

Testimony:

George Bennett - "We strongly support this bill. It follows through on legislation Senator Thayer sponsored in the last session to further Montana's program of centralized filing of Agricultural liens. I should note Montana's program of centralized lien filing is one of the first to be approved by the Federal authorities. What this bill does is to take your title 71 liens, your state law statutory liens, farm labors crop liens, seed and grain threshers liens, spraying, dusting, etc... It is required they be filed with the Secretary of State. So anyone searching for liens on farm or products can find them in the centralize filing. We have examined the amendments proposed by the department of Agriculture and also the one amendment proposed by the County Clerks. These amendments help the bill."

Cort Harrington - "The clerks generally are opposed to centralized filing because it takes the filing away from the county office. However, with respect to Ag liens, most of the ag liens are currently filed with the Secretary of the State and after consulting with the numerous clerks, they said they're aren't enough liens affected by this bill to make any difference. Therefore, they would support this bill. There is one technical amendment, on page 3, line 19. It talks about filing renewal of a lien." Mr. Harrington submitted an amendment. See exhibit 12.

Questions From Committee Members: Senator Aklestad - "Who's obligation is it to pull these liens off at the time the indebtedness is paid?" George Bennett - "The liens are going to filed with the Secretary of State. The liens release and lien termination should be filed with the Secretary of State. That's what their amendments do."

Senator Aklestad - "You don't have to pay for your state hail insurance at the time you take out?" Ralph Peck - "That's correct. It can go against your tax roll."

Senator Aklestad - "What if a guy doesn't own real estate? What if he rents? Can he get hail insurance? Who are these 200 guys that are late?" Ralph Peck - "Then it would go against the crop. So you can do it against the property or you can do it against the crop."

Senator Devlin - "What are these 200 guys late about? Are they late paying their taxes is that why you're short?" Ralph Peck - "Yes."

Senator Beck - "Does the county Treasurer write you a warrant for this? Would they normally write you a warrant for the hail insurance and they pick up the delinquent taxes?" Ralph Peck - "It's put on as a receivable and then it's received by the county when they pay their taxes."

Senator Beck - "You don't get it until the delinquent taxes are paid?" Ralph Peck - "I think that is correct."

Closing by Sponsor: Representative Swysgood closed.

Senator Thayer was assigned to carry HB 701.

HEARING ON HOUSE BILL 367

Presentation and Opening Statement by Sponsor:

Representative O'Keefe, House District 45, explained HB 367 cleans up what we passed in 1987 session when we passed the water development statute. We set up the people of the Department of Natural Resources as bankers. Bankers who loan money to water development program which were ran by private entities. The legislature doesn't have the constitutional authority to do that so we delegated it the Department of Natural Resources. The one thing we didn't do when we delegated that responsibility to them was give them a mechanism to protect the investments we make with the state money. What this bill would do is allow the Department to use funds in the water development special revenue account and water development general obligation bond proceeds to protect the loans that are made under the water development private loan program. Right now there are about 55 loans totaling $4 million out from DNRC to private individuals around the state. These are primarily irrigation projects. In the case the Department would have to foreclose on any of these loans, the department needs to be in a position to protect its security interests. That's what HB 367 does." Representative O'Keefe submitted a sheet of amendments. See exhibit 13.

List of Testifying Proponents and What Group They Represent:

Gary Fritz representing the Department of Natural

ROLL CALL

AGRICULTURE COMMITTEE

DATE 3/8/89

51st LEGISLATIVE SESSION 1989

NAME	PRESENT	ABSENT	EXCUSED
SENATOR HUBERT ABRAMS	✓		
SENATOR GARY AKLESTAD	✓		
SENATOR ESTHER BENGTSON	✓		
SENATOR GERRY DEVLIN	✓		
SENATOR JACK GALT	✓		
SENATOR GREG JERGESON	✓		
SENATOR GENE THAYER	✓		
SENATOR BOB WILLIAMS	✓		
SENATOR TOM BECK	✓		

Each day attach to minutes.

SENATE AGRICULTURE
EXHIBIT NO. 1
DATE 3/8/89
BILL NO. HB 273, HB 352, HB 367, HB 701

BILL SUMMARY--SENATE AGRICULTURE COMMITTEE
MARCH 8, 1989
PREPARED BY DOUG STERNBERG, COMMITTEE STAFF

HB 273 Section 1: adds six terms to the definition section

Section 2: specifically includes voluntary debt mediation as a type of assistance to be provided under the agricultural assistance program

Section 3: requires the department to contract with mediators in providing assistance; requires training for farm financial consultants and mediators; continues present toll-free telephone line and advisory board

Section 4: repeals session law that established termination date

Section 5: repeals agricultural assistance and counseling program

Section 6: extends present agency rulemaking authority

Section 7: standard severability section

Section 8: effective date of all sections except sec. 5 on July 1, 1989; effective date of program termination (sec. 5) July 1, 1991

HB 352 Section 1: clarifies what constitutes a vacancy in the office of conservation district supervisor; allows for excused absences from meetings

Section 2: includes vacancy as a condition of removal from office of supervisor

HB 367 Section 1: provides that the water development account may be used to purchase liens and operate property as provided in sec. 3

Section 2: allows appropriation of a certain amount of the water development account for purchase of liens and operation of property

Section 3: establishes criteria for lien purchases and property operation; requires expeditious resale of property to recover funds

Section 4: includes lien purchase and property operation in restrictions on use of water development bond proceeds

Section 5: authorizes sale of water development bonds for lien purchases and property operation

Section 6: extends present agency rulemaking authority

Section 7: provides immediate effective date

HB 701 Section 1: revises information required in agricultural lien statements; requires that a copy of statements filed with the county clerk also be filed with the secretary of state by March 31, 1990

Section 2: requires that farm laborers' liens be filed only with the secretary of state

Section 3: deletes reference to recordkeeping by a county clerk with regard to farm laborers' liens

Ex. #1
3/8/89

Section 4: requires that seed or grain liens be filed only with the secretary of state

Section 5: requires that hail insurance liens be filed only with the secretary of state

Section 6: requires filing of threshers' liens only with the secretary of state

Section 7: requires that crop or grain liens for spraying or dusting be filed only with the secretary of state

Section 8: repeals sections outlining lien filing duties of county clerks

Section 9: extends present agency rulemaking authority

Section 10: applies centralized filing to liens filed after 9/30/89

SENATE AGRICULTURE
EXHIBIT NO. 10
DATE 3/8/89
BILL NO. HB 701

TESTIMONY FOR HB-701

AG LIEN BILL

Mr. Chairman & Members of the Committee:

Most all Ag liens are now filed on a computer at the Secretary of State's office so that lenders, farm laborers, threshermen, fuel and chemical dealers, crop dusters, and other ag inputters can apply their liens to ag buyers. Under current federal and state law, all lenders and ag inputters must utilize the centralized filing service at the Secretary of State's office to make their lien effective against buyers of ag products such as grain and livestock. It is, therefore, a waste of time and money to file ag liens with the county. To file at the counties and not the state would allow the buyers of ag products to take those products free and clear of any lien.

HB-701 is merely a housekeeping bill to eliminate the county as a place of filing ag liens. As I said, virtually everyone is already filing their ag liens at the Secretary of State's office. To also file them at the county is a duplication and unnecessary expense.

Centralized filing has been working extremely well since it was put into place 4 years ago. All buyers of ag products merely have to contact the Secretary of State's office to determine what lenders and creditors have ag liens filed against the ag products being sold. Before centralized filing no one knew who had what lien because they were filed in 56 different counties.

Please support HB-701.

SENATE AGRICULTURE
EXHIBIT NO. 11
DATE 3/8/89
BILL NO. HB 701

Amendments to House Bill No. 701
Third Reading Copy
Requested by Rep. Swysgood
Prepared by Mary McCue
March 8, 1989

1. Title, line 7.
Strike: "AND"

2. Title, line 8.
Following: "71-3-902,"
Insert: "80-2-207, 80-2-226, AND 80-2-230,"
Following: "SECTIONS"
Insert: "71-3-131,"

3. Page 3, line 14.
Following: "means a
Insert: "crop"

4. Page 3, line 15.
Following: "or"
Insert: "a lien"

5. Page 10, following line 7.
Insert: "**Section 8.** Section **80-2-207, MCA,** is amended to read:

"**80-2-207. Delinquent taxes -- application by delinquent -- crop lien.** (1) No owner of land who has more than 1 year's delinquent taxes on his land ~~shall~~ may be allowed hail insurance under the provisions of this part, unless his application is accompanied by a cash payment for the amount that would be due on ~~said~~ the application in the event of a maximum levy for that year.

(2) Any grain grower unable to secure state hail insurance under the provisions of this part on account of delinquent taxes or for other reasons may make application to the county assessor of his respective county and said county assessor is hereby authorized to receive and accept ~~such~~ the applications ~~where~~ if the applicant furnishes a sufficient crop lien subject only to a seed lien.~~, provided that such~~ However, the crop lien ~~shall~~ may be accepted only under such rules and requirements as ~~may be~~ prescribed by the board of hail insurance.~~ and provided that the~~ The board may cancel any hail insurance accepted in violation of said rules and requirements. Upon receipt of ~~said~~ the application, the county assessor shall make record ~~thereof~~ of it and shall file ~~the original~~ a statement of agricultural lien as provided in 71-3-125 in the office of the ~~clerk and recorder of said county~~ secretary of state. ~~He~~ The county assessor shall also cause an assessment for the proper amount to be made on the assessment rolls in the same manner provided for in the case of other special levies or assessments.

(3) No tenant who has delinquent hail insurance which was secured by a crop lien only and not secured by real estate shall be allowed another policy in any succeeding year until he pays

his delinquent account or accounts or until he pays cash for the current hail insurance.

(4) If any tenant becomes delinquent for his hail insurance after having failed to apply for relief as provided by the board under 80-2-229, he may apply to the board for a reduction. If his reasons for requesting a reduction are approved by the board, the board may reduce his charge to not less than one-half the original amount charged."

"**Section 9.** Section 80-2-226, MCA, is amended to read:

"**80-2-226. Crop lien -- when created -- assessment.** (1) In addition to the lien created in 80-2-225 on the land of the insured, the levy for such hail insurance ~~shall constitute~~ constitutes a lien on the crops insured with the exception that the crop lien may not apply to owners of unencumbered land or to the land or crops of those who pay cash for hail insurance. The applications of these persons ~~may not~~ must be filed with the county clerk and recorded ~~as provided for in 80-2-207~~. The clerk shall file a statement of agricultural lien in the office of the secretary of state. The crop lien shall be included in all applications for hail insurance, with the above exceptions, and shall be enforced as provided in 80-2-230 and 80-2-231 against all insured except those owning unencumbered land or those who have paid cash for hail insurance.

(2) All applicants securing hail insurance on crop liens as heretofore provided shall be subject to the same charges per acre as provided herein to be made on land."

"**Section 10.** Section 80-2-230, MCA, is amended to read:

"**80-2-230. Collection of levies -- release of lien.** (1) The county treasurer in each county in the state shall collect all levies made under this part in the same manner as other property taxes are collected and shall keep all moneys collected by him or for him for hail insurance in a separate fund to be known as the hail insurance fund and remit the same to the state treasurer in the same manner as provided by law for the remittance of other moneys due to the state. All county treasurers shall use due diligence in making the collections of the levies provided herein. Also the board may furnish assistance needed at any time in making collections or may take over the collection of any levy at any time, depositing any collections therefrom with the treasurer of the county where the levy therefor was made.

(2) All insurance levies, whether levied against land or in the form of special assessments secured by crop liens, shall be payable in full and not in semiannual payments on or before November 30 of each year in which such levies are made.

(3) Whenever the amount due on any hail insurance secured by a crop lien is paid, the county treasurer shall promptly ~~endorse on the lien on file in the office of the county clerk and recorder~~ file the appropriate notice of lien release with the office of the secretary of state as provided in Title 71, chapter 3. ~~the amount paid thereon with the date of payment and such endorsement shall be a satisfaction and release of such lien.~~""

Renumber: subsequent sections

Ex #11
3/8/89
HB 701

6. Page 10, line 8.
Following: "Sections"
Insert: "71-3-131,"

SENATE AGRICULTURE
EXHIBIT NO. 12
DATE 3/8/89
BILL NO. HB 701
Cort Harrington

PROPOSED AMENDMENTS TO HOUSE BILL NO. 701

1. Page 3, Line 19

Following: "DATE"

Strike: "there is filed"

Insert: "the lienor files."

DATE 3/8/89

COMMITTEE ON Agriculture

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One Support	Check One Oppos
Kay Norenberg	Mt. Ag. Coalition & Wholgrowers Assn. HPA + WIFE	HB273	✓	
Mary Lou Heiken	Mt. Assoc. of Churches Bldg. Mt.	HB273	✓	
FRANK LOCH, JR	Self.	HB273	✓	
John Ortwein	Mt Catholic Conf.	HB273	✓	
Ole Ueland	Resource Cons. Advisory Council	HB352	✓	
Peggy Haaghuud	MT Assoc. of Cons. Dist	HB352	✓	
Mignon Waterman	Mt. Assoc. of Churches	HB273	✓	
Cort Harrington	Mont Ass. of Clerk + Rec	HB701	✓ as amended	
RON DE YONG	Mt FARMERS UNION	HB273	✓	
Gary Tritz	DNRC	HB367	✓	
Carolyn Cheney	DNRC	HB367	✓	
Mark O'Keefe	HD 45	HB367	✓	
~~Carolyn Che~~				

(Please leave prepared statement with Secretary)

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON AGRICULTURE, LIVESTOCK AND IRRIGATION

Call to Order: By Chairman Bob Bachini, on February 17th 1989, at 3:55 p.m.

ROLL CALL

Members Present: All present with exception of:

Members Excused: Rep. Jerry Driscoll

Members Absent: none

Staff Present: Ms. Connie Erickson, Legislative Council and Ms. Maureen Cleary, Committee Secretary

Announcements/Discussion: none

HEARING ON HOUSE BILL 701

Presentation and Opening Statement by Sponsor:

REP. CHUCK SWYSGOOD: House District #73. (Read text of bill) This bill eliminates the county as a place to file agriculture liens. Currently, liens are filed with the secretary of states office. This will eliminate any duplication and extra costs.

Testifying Proponents and Who They Represent:

Mr. Bill Leavy/ Montana Bankers Association, Helena

Proponent Testimony:

Mr. Leavy: We support this legislation.

Testifying Opponents and Who They Represent:

none

Opponent Testimony:

none

Questions From Committee Members:

REP. KASTEN: The 3% that are not being filed now, does that represent any one segment? REP. SWYSGOOD: I don't think that it reflects any certain group.
REP. BACHINI: They have until 1990 to continue to file with the

clerk and recorders office? REP. SWYSGOOD: This applies to leases to be filed after September 30th 1989. REP. BACHINI: There seems to be a lot of concern from the clerk and recorders offices, are you aware of that? REP. SWYSGOOD: I have heard nothing personally. There were some 100 liens filed in 1988. That breaks down to about 2 per county. I don't see where this figure will have a significant financial impact on those counties.

REP. KELLER: Access will be more available through the clerk of recorders offices, would it not? REP. SWYSGOOD: Once it is known that everything must be filed through one office, it will save time and effort.

Closing by Sponsor:

REP. SWYSGOOD: I urge your support of this bill.

DISPOSITION OF HOUSE BILL 701

Motion: Rep. Linda Nelson: made the motion "do pass"

Discussion: none

Amendments, Discussion, and Votes: none

Recommendation and Vote: THEREFORE, THE COMMITTEE RECOMMENDS A "DO PASS" FOR THIS BILL.

HEARING ON HOUSE BILL 675

Presentation and Opening Statement by Sponsor:

REP. GARY SPAETH: House District #84. This bill deals with the alfalfa leaf cutting bees. It is an important industry to the state, with specific problems to specific areas. I will provide amendments that have been agreed upon between the Dept. of Agriculture and the bee producers in the state. (See Exhibits #1 and #2)

Testifying Proponents and Who They Represent:

Mr. Tim Wetstein/ MT. Alfalfa Seed Association, Joliet, MT

Proponent Testimony:

Mr. Wetstein: There are specific problems with the alfalfa leaf cutting bee. The changes to the current law will make the job a lot easier on growers and producers.

Testifying Opponents and Who They Represent:

none

DAILY ROLL CALL

AGRICULTURE COMMITTEE

50th LEGISLATIVE SESSION -- 1989

Date Feb. 17

NAME	PRESENT	ABSENT	EXCUSED
Rep. Bob Bachini, Chairman	✓		
Rep. Francis Koehnke, Vice Ch.	✓		
Rep. Gene DeMars	✓		
Rep. Jerry Driscoll			✓
Rep. Jim Elliot	✓		
Rep. Linda Nelson	✓		
Rep. Bob Ream	✓		
Rep. Don Steppler	✓		
Rep. Vernon Westlake	✓		
Rep. Duane Compton	✓		
Rep. Orval Ellison	✓		
Rep. Bert Guthrie	✓		
Rep. Marian Hanson	✓		
Rep. Harriet Hayne	✓		
Rep. Betty Lou Kasten	✓		
Rep. Vernon Keller	✓		
Rep. John Patterson	✓		

CS-30

STANDING COMMITTEE REPORT

February 18, 1989

Mr. Speaker: We, the committee on Agriculture, Livestock, and Irrigation report that House Bill 701 (first reading copy -- white) do pass.

Signed: Bob Bachini
Bob Bachini, Chairman

VISITORS' REGISTER

Agriculture COMMITTEE

BILL NO. HB [redacted] 701 DATE 2/17/89

SPONSOR

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Bill LEARY	Mont. Bankers Assn	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

ROLL CALL VOTE

AGRICULTURE, LIVESTOCK & IRRIGATION COMMITTEE

DATE 2/17/89 BILL NO. HB701 NUMBER

NAME	AYE	NAY
BOB BACHINI, CHAIRMAN	✓	
FRANCIS KOEHNKE, VICE CHAIRMAN	✓	
GENE DE MARS	✓	
JERRY DRISCOLL	✓	
JIM ELLIOT	✓	
LINDA NELSON	✓	
BOB REAM	Ø	
DON STEPPLER	✓	
VERNON WESTLAKE	✓	
DUANE COMPTON	✓	
ORVAL ELLISON	Ø	
BERT GUTHRIE	✓	
MARIAN HANSON	✓	
HARRIET HAYNE	✓	
BETTY LOU KASTEN	✓	
VERNON KELLER	✓	
JOHN PATTERSON	✓	

TALLY 15

Maureen Cleary
~~Mary Lou Schmitz~~
Secretary

BOB BACHINI, Chairman
Chairman

MOTION: rep. nelson "do pass" disc.

1 "DO PASS"

Form CS-31
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